April 9, 2001

ENGROSSED
SENATE BILL No. 215

DIGEST OF SB 215 (Updated April 3, 2001 7:50 PM - DI 77)

Citations Affected: IC 12-15; noncode.

Synopsis: Health related committees. Amends requirements of the drug utilization review board concerning prior authorization programs and programs to reduce costs in the Medicaid outpatient prescription drug program. Extends the prescription drug advisory committee until December 2003 and allows legislative members on the advisory committee to vote. Requires the prescription drug advisory committee to make every effort to first expand the current program design to provide an increased benefit to cover a high percentage of the out of pocket costs paid by the recipient for the recipient's prescription drugs. Establishes the governor's commission on caregivers to study issues regarding the availability and quality of caregivers in long term care health settings. Requires the commission to submit a report to the governor and legislative council by not later than October 1, 2002. Allows the commission to contract with a private individual or organization to provide the staff support necessary for the operation of the commission, including conducting research and developing the required report. Appropriates $49,000 from the state general fund for the commission to fulfill its purpose.

Effective: July 1, 2001.

Miller, Merritt, Young R

(HOUSE SPONSORS — BROWN C, BECKER, BUDAK, GOEGLEIN)

January 9, 2001, read first time and referred to Committee on Rules and Legislative Procedure.
January 30, 2001, amended, reported favorably — Do Pass.
February 8, 2001, read second time, ordered engrossed.
February 9, 2001, engrossed.
February 13, 2001, read third time, passed. Yeas 44, nays 6.

HOUSE ACTION

February 26, 2001, read first time and referred to Committee on Public Health.
April 5, 2001, amended, reported — Do Pass; referred to Committee on Ways and Means pursuant to House Rule 127.
April 9, 2001, referral to Committee on Ways and Means withdrawn.

April 9, 2001

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

ENGROSSED
SENATE BILL No. 215

A BILL FOR AN ACT to amend the Indiana Code concerning health and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 12-15-35-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 9. As used in this chapter, "intervention" means an action taken by the board, **the office, or the office's contractor** with a prescriber or pharmacist to inform about or to influence prescribing or dispensing practices or utilization of drugs.

SECTION 2. IC 12-15-35-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 19. **(a)** The drug utilization review board is established.

(b) The board shall meet monthly.

SECTION 3. IC 12-15-35-35, AS AMENDED BY P.L.231-1999, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 35. (a) As used in this section, "single source drug" means a covered outpatient drug that is produced or distributed under an original new drug application approved by the federal Food and Drug Administration, including a drug product marketed by any cross-licensed producers or distributors operating under the new drug

application.

(b) Before the **office or** board develops **or initiates** a program to place a single source drug on prior approval, restrict the drug in its use, or establish a drug monitoring process or program to measure or restrict utilization of single source drugs other than in the SURS program, the board must meet the following conditions:

(1) Make a determination, after considering evidence and credible information provided to the board by the office and the public, that placing a single source drug on prior approval or restricting the drug's use will not:

(A) impede the quality of patient care in the Medicaid program; or

(B) increase costs in other parts of the Medicaid program, including hospital costs and physician costs.

(2) Meet to review a formulary or a restriction on a single source drug after the office provides at least thirty (30) days notification to the public that the board will review the formulary or restriction on a single source drug at a particular board meeting. The notification shall contain the following information:

(A) A statement of the date, time, and place at which the board meeting will be convened.

(B) A general description of the subject matter of the board meeting.

(C) An explanation of how a copy of the formulary to be discussed at the meeting may be obtained.

The board shall meet to review the formulary or the restriction on a single source drug at least thirty (30) days but not more than sixty (60) days after the notification.

(3). Ensure that:

(A) there is access to at least two (2) alternative drugs within each therapeutic classification, if available, on the formulary; and

(B) a process is in place through which a Medicaid recipient has access to medically necessary drugs.

(4) Reconsider the drug's removal from its restricted status or from prior approval not later than six (6) months after the single source drug is placed on prior approval or restricted in its use.

(5) Ensure that the program provides either telephone or FAX approval or denial Monday through Friday, twenty-four (24) hours a day. The office must provide the approval or denial within twenty-four (24) hours after receipt of a prior approval request. The program must provide for the dispensing of at least a

seventy-two (72) hour supply of the drug in an emergency situation or on weekends.

(6) Ensure that any prior approval program or restriction on the use of a single source drug is not applied to prevent acceptable medical use for appropriate off-label indications.

(c) The board shall advise the office on the implementation of any program to restrict the use of brand name multisource drugs.

(d) The board shall consider:

(1) health economic data;

(2) cost data; and

(3) the use of formularies in the non-Medicaid markets;

in developing its recommendations to the office.

SECTION 4. IC 12-15-35-48 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 48. (a) The board shall evaluate and make recommendations to the office on programs or initiatives that can be used by the office or through a contractor to reduce costs in the Medicaid outpatient prescription drug program through at least one (1) of the following programs:**

(1) Prescriber education on cost effective use of prescription drugs through appropriate prescribing.

(2) Pharmacist education on cost effective use of prescription drugs through effective counseling of patients about the patient's pharmaceutical therapies to ensure patient compliance with the pharmaceutical therapy.

(3) Point of sale prescription drug programs to conduct prospective drug utilization reviews.

(4) Identification of fraudulent activities or fraudulent claims submitted for reimbursement in the Medicaid prescription drug program.

(b) When providing the office with recommendations, the board shall evaluate if the programs or initiatives will result in any of the following:

(1) An increase in other Medicaid costs, including physician services, hospital services, nursing home services, or laboratory services.

(2) Adverse health outcomes for Medicaid recipients.

(c) The office and the board shall prepare and present a quarterly report to the select joint committee on Medicaid oversight (established by P.L.130-1998). The report must contain an overview of the following:

(1) The cost savings in the Medicaid prescription drug

program as a result of this chapter.

(2) Any cost increases in the Medicaid program or other state funded programs as a result of this chapter.

(3) Recommendations for improving and increasing cost effective and clinically appropriate use of prescription drugs in the Medicaid program.

SECTION 5. P.L.21-2000, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: SECTION 15. (a) The Indiana prescription drug advisory committee is established to:

(1) study pharmacy benefit programs and proposals, including programs and proposals in other states; and

(2) make initial and ongoing recommendations to the governor for programs that address the pharmaceutical costs of low-income senior citizens.

(b) The committee consists of eleven (11) members appointed by the governor and four (4) legislative members. The term of each member expires December 31, ~~2001.~~ **2003.** The members of the committee appointed by the governor are as follows:

(1) A physician with a specialty in geriatrics.

(2) A pharmacist.

(3) A person with expertise in health plan administration.

(4) A representative of an area agency on aging.

(5) A consumer representative from ~~a~~ senior citizen advocacy organization.

(6) A person with expertise in and knowledge of the federal Medicare program.

(7) A health care economist.

(8) A person representing a pharmaceutical research and manufacturing association.

(9) Three (3) other members as appointed by the governor.

~~The four (4) legislative members shall serve as nonvoting members.~~ The speaker of the house of representatives and the president pro tempore of the senate shall each appoint two (2) legislative members, who may not be from the same political party, to serve on the committee.

(c) The governor shall designate a member to serve as chairperson. A vacancy with respect to a member shall be filled in the same manner as the original appointment. Each member is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties. The expenses of the committee shall be paid from the Indiana pharmaceutical assistance fund created by IC 4-12-8. The office of the secretary of family and social services

shall provide staff for the committee. The committee is a public agency for purposes of IC 5-14-1.5 and IC 5-14-3. The advisory council is a governing body for purposes of IC 5-14-1.5.

(d) ~~Not later than September 1, 2000,~~ The board shall make **periodic** program design recommendations to the governor and the family and social services administration concerning the following:

(1) Eligibility criteria, including the desirability of incorporating an income factor based on the federal poverty level.

(2) Benefit structure.

(3) Cost-sharing requirements, including whether the program should include a requirement for copayments or premium payments.

(4) Marketing and outreach strategies.

(5) Administrative structure and delivery systems.

(6) Evaluation.

(e) The recommendations shall address the following:

(1) Cost-effectiveness of program design.

(2) Coordination with existing pharmaceutical assistance programs.

(3) Strategies to minimize crowd-out of private insurance.

(4) Reasonable balance between maximum eligibility levels and maximum benefit levels.

(5) Feasibility of a health care subsidy program where the amount of the subsidy is based on income.

(6) Advisability of entering into contracts with health insurance companies to administer the program.

(f) The committee may not recommend the use of funds from the Indiana pharmaceutical assistance fund for a state prescription drug benefit for low-income senior citizens if there is a federal statute or program providing a similar prescription drug benefit for the benefit of low-income senior citizens.

(g) **When the committee considers possible program design modifications, the committee shall make every effort to first expand the current program design to provide an increased benefit to cover a high percentage of the out of pocket costs paid by the recipient for the recipient's prescription drugs.**

(h) This SECTION expires December 31, ~~2001.~~ **2003.**

SECTION 6. [EFFECTIVE JULY 1, 2001] **(a) As used in this SECTION, "commission" refers to the governor's commission on caregivers established by subsection (d).**

(b) As used in this SECTION, "health facility" has the meaning set forth in IC 16-18-2-167.

(c) As used in this SECTION, "long term care caregivers" means certified nurse aides, licensed practical nurses, and registered nurses employed in health facilities, home health care, and other community based settings.

(d) The governor's commission on caregivers is established.

(e) The commission consists of the following members:

(1) The governor or the governor's designee, who shall serve as the chairperson.

(2) The state health commissioner (IC 16-19-4-2) or the commissioner's designee.

(3) The president of the Indiana state board of nursing (IC 25-23-1-5) or the president's designee.

(4) The secretary of family and social services (IC 12-8-1-2) or the secretary's designee.

(5) The chairman of the commission for higher education (IC 20-12-0.5-7) or the chairman's designee.

(6) The state superintendent of public instruction or the superintendent's designee.

(7) The commissioner of the department of workforce development (IC 22-4.1-3-1) or the commissioner's designee.

(8) The director of the department of commerce (IC 4-4-3-2) or the director's designee.

(9) The commissioner of the department of labor (IC 22-1-1-2) or the commissioner's designee.

(10) One (1) member appointed by the governor to represent each of the following organizations:

(A) The Indiana Association of Homes and Services for the Aging.

(B) The Indiana Health Care Association.

(C) The Indiana Association for Home and Hospice Care.

(D) The Indiana State Nurses Association.

(E) The Indiana Health and Hospital Association.

(F) The Indiana Home Care Task Force.

(G) The Indiana Association of Area Agencies on Aging.

(H) United Senior Action.

(I) The Indiana University School of Nursing.

(J) Ivy Tech State College.

(11) One (1) member appointed by the governor to represent a private postsecondary educational institution that offers nursing degrees.

(f) The commission shall do the following:

(1) Review data and information on the availability of and

need for long term care caregivers.

(2) Evaluate barriers to increasing the supply of long term care caregivers.

(3) Evaluate the adequacy of existing training programs in the state for long term care caregivers.

(4) Develop recommendations to increase the supply of long term care caregivers, including the following:

(A) Welfare to work programs.

(B) Worker recruitment and incentive programs.

(C) Immigration.

(D) Linkages between training programs and the long term care and senior services industries.

(E) Cross-training of nurse aides across the continuum of long term care services.

(F) Potential roles for various state agencies and educational institutions represented on the commission.

(g) Eleven (11) members of the commission constitute a quorum.

(h) The affirmative votes of at least eleven (11) members of the commission are required for the commission to take any action, including the approval of a final report.

(i) Each member of the commission who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b).

(j) The commission may contract with a private individual or organization to provide the staff support necessary for the operation of the commission, including conducting research and developing the report required under subsection (l).

(k) The commission shall submit a report to the governor and the legislative council by not later than October 1, 2002.

(l) There is appropriated to the commission forty-nine thousand dollars ($49,000) from the state general fund to implement this SECTION, beginning July 1, 2001, and ending October 1, 2002.

(m) Funds appropriated under subsection (l) do not revert to the state general fund at the close of a state fiscal year but remain available to the commission through October 1, 2002.

(n) This SECTION expires October 2, 2002.

SENATE MOTION

Mr. President: I move that Senators Merritt and Young R be added as coauthors of Senate Bill 215.

MILLER

COMMITTEE REPORT

Mr. President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 215, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 25, delete "Community College of Indiana." and insert "**Ivy Tech State College.**".

and when so amended that said bill do pass.

(Reference is to SB 215 as introduced.)

GARTON, Chairperson

Committee Vote: Yeas 6, Nays 2.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Senate Bill 215, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning health and to make an appropriation.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 12-15-35-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 9. As used in this chapter, "intervention" means an action taken by the board, **the office, or the office's contractor** with a prescriber or pharmacist to inform about or to influence prescribing or dispensing practices or utilization of drugs.

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(b) The board shall meet monthly.

SECTION 3. IC 12-15-35-35, AS AMENDED BY P.L.231-1999, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 35. (a) As used in this section, "single source drug" means a covered outpatient drug that is produced or distributed under an original new drug application approved by the federal Food and Drug Administration, including a drug product marketed by any cross-licensed producers or distributors operating under the new drug application.

(b) Before the **office or** board develops **or initiates** a program to place a single source drug on prior approval, restrict the drug in its use, or establish a drug monitoring process or program to measure or restrict utilization of single source drugs other than in the SURS program, the board must meet the following conditions:

(1) Make a determination, after considering evidence and credible information provided to the board by the office and the public, that placing a single source drug on prior approval or restricting the drug's use will not:

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drug after the office provides at least thirty (30) days notification to the public that the board will review the formulary or restriction on a single source drug at a particular board meeting. The notification shall contain the following information:

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(B) a process is in place through which a Medicaid recipient has access to medically necessary drugs.

(4) Reconsider the drug's removal from its restricted status or from prior approval not later than six (6) months after the single source drug is placed on prior approval or restricted in its use.

(5) Ensure that the program provides either telephone or FAX approval or denial Monday through Friday, twenty-four (24) hours a day. The office must provide the approval or denial within twenty-four (24) hours after receipt of a prior approval request. The program must provide for the dispensing of at least a seventy-two (72) hour supply of the drug in an emergency situation or on weekends.

(6) Ensure that any prior approval program or restriction on the use of a single source drug is not applied to prevent acceptable medical use for appropriate off-label indications.

(c) The board shall advise the office on the implementation of any program to restrict the use of brand name multisource drugs.

(d) The board shall consider:

(1) health economic data;

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in developing its recommendations to the office.

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(3) Point of sale prescription drug programs to conduct prospective drug utilization reviews.

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(b) When providing the office with recommendations, the board shall evaluate if the programs or initiatives will result in any of the following:

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(3) A person with expertise in health plan administration.

(4) A representative of an area agency on aging.

(5) A consumer representative from ~~a~~ senior citizen advocacy organization.

(6) A person with expertise in and knowledge of the federal Medicare program.

(7) A health care economist.

(8) A person representing a pharmaceutical research and manufacturing association.

(9) Three (3) other members as appointed by the governor.

~~The four (4) legislative members shall serve as nonvoting members.~~ The speaker of the house of representatives and the president pro tempore of the senate shall each appoint two (2) legislative members, who may not be from the same political party, to serve on the committee.

(c) The governor shall designate a member to serve as chairperson. A vacancy with respect to a member shall be filled in the same manner as the original appointment. Each member is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties. The expenses of the committee shall be paid from the Indiana pharmaceutical assistance fund created by IC 4-12-8. The office of the secretary of family and social services shall provide staff for the committee. The committee is a public agency for purposes of IC 5-14-1.5 and IC 5-14-3. The advisory council is a governing body for purposes of IC 5-14-1.5.

(d) ~~Not later than September 1, 2000,~~ The board shall make **periodic** program design recommendations to the governor and the family and social services administration concerning the following:

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(4) Marketing and outreach strategies.

(5) Administrative structure and delivery systems.

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(e) The recommendations shall address the following:

(1) Cost-effectiveness of program design.

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(3) Strategies to minimize crowd-out of private insurance.

(4) Reasonable balance between maximum eligibility levels and maximum benefit levels.

(5) Feasibility of a health care subsidy program where the amount of the subsidy is based on income.

(6) Advisability of entering into contracts with health insurance companies to administer the program.

(f) The committee may not recommend the use of funds from the Indiana pharmaceutical assistance fund for a state prescription drug benefit for low-income senior citizens if there is a federal statute or program providing a similar prescription drug benefit for the benefit of low-income senior citizens.

(g) **When the committee considers possible program design modifications, the committee shall make every effort to first expand the current program design to provide an increased benefit to cover a high percentage of the out of pocket costs paid by the recipient for the recipient's prescription drugs.**

(h) This SECTION expires December 31, ~~2001.~~ **2003.**".

Page 2, line 25, delete "The".

Page 3, line 18, delete "seventy-five" and insert "**forty-nine**".

Page 3, line 19, delete "($75,000) and insert "**($49,000)**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 215 as printed January 31, 2001.)

BROWN C, Chair

Committee Vote: yeas 13, nays 0.